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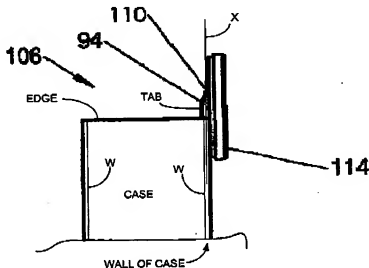
REMARKS

Claims 1-65 are canceled. Claims 66 and 68 are currently amended. Claims 67 and 69-91 were previously presented. New claims 92-94 are added. Accordingly, claims 66-94 are pending examination.

Rejection of Claims Under 35 USC §112

Claims 66-97 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Office Action argues that "it is unclear how the edge of the case can be positioned between the tab and the case. The following diagram is a blown up portion of Figure 22 in the text. For the purposes of illustration, the lines labeled W have been added to illustrate the thickness of the wall of the case. The line labeled X extends through the tab, then through the edge of the case, and then through the case itself. As a result, the edge of the case is between the tab and the case itself as is claimed.



Note that this relationship remains true even with a very thin case wall. As a result, the relationship remains true even without the addition of the lines labeled W to the above diagram. Accordingly, the lines labeled W are added to the diagram so the line

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labeled X passing through the edge of the case and into the case is readily visible. As a result, the lines labeled W are for illustrative purposes.

Claim 66 has been amended to recite "resting the end cap on the case with an edge of the case between a portion of the tab and a portion of the end cap and the tab extends from the electrodes in the case over an edge of the case." The scope of this amendment includes the arrangement illustrated by the above diagram.

Rejection of Claim 66 Under 35 USC §103

Independent Claim 66 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,501,915 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh).

In response to the Applicant's arguments, the Office Action states that "Kitoh in Figure 4 discloses providing a lower lid 47 positioned between the edge of the case and the tab while transporting electrolyte through the opening an into the case, afterwhich, the case is sealed with an upper lid 47." However, this references to Kitoh does not appear to be referring to U.S. Patent No. 6,399,242. For instance, there is no lower lid labeled 47 or an upper lid labeled 47 in Figure 4 or in the associated text. Additionally, the Applicant cannot find where Kitoh provides any teaching about transporting an electrolyte into a case either associated with Figure 4 or elsewhere in the specification. Also, the rejection of claim 67 argues that Figure 4 of Kitoh teaches a battery lid that is perpendicular to an opening. However, the cap disclosed in Figure 4 of Kitoh extends across the opening so as to seal the opening as disclosed in Figure 4 itself and also at C5, L28. In order for the cap to extend across the opening, the cap must be parallel to the opening rather than perpendicular to the opening. As a result, it appears that the Office Action is citing to a different reference. Clarification of this issue is respectfully requested.

Additionally, as noted above, claim 66 is amended to recite "transporting electrolyte through the opening and into the case while resting the end cap on the case with an edge of the case between a portion of the tab and a portion of the end cap and the tab extends from the electrodes in the case over the edge of the case." Neither Kitoh nor

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Teramoto teaches or suggests resting an end cap on the case with an edge of the case between a portion of the tab and a portion of the end cap and the tab extends from the electrodes in the case over an edge of the case. Further, Kitoh nor Teramoto suggests transporting electrolyte through the opening while resting an end cap as described. Since the combination of Kitoh and Teramoto fails to teach or suggest every element of claim 66, claim 66 is patentable over the cited art.

Rejection of Claims Under 35 USC §102(e)

Claims 66-91 are rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,677,076 (Nakahara). However, this application is a Divisional of U.S. Patent Application No. 10/167,688 which was filed on the same date as Nakahara. Accordingly, this application has a priority date that is the same as the filing date of Nakahara. Further, both Nakahara and U.S. Patent Application No. 10/167,688 claim the benefit of the same U.S. Provisional Application (serial number 60/348,665). As a result, the earliest priority date for both applications is also the same. Since the priority dates for this application and Nakahara are the same, Nakahara does not qualify as prior art under 35 USC §102(e).

Rejection of Claims 67-94

Claims 67-91 each depends directly or indirectly from claim 66. Since claim 66 is believed to be in condition for allowance, these claims are also believed to be in condition for allowance.

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CONCLUSION

Applicant submits that the claims define patentably over the prior art and that this application is in condition for allowance. Accordingly, favorable consideration and allowance of this application is courteously requested.

The Examiner is encouraged to telephone the undersigned with any questions.



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